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DEPARTMENT OF COMMERCE

International Trade Administration

(A-583-850)

Certain Oil Country Tubular Goods from Taiwan: Notice of Court Decision Not in Harmony With Final Determination of Sales at Less Than Fair Value, Notice of Amended Final Determination and Revocation of Antidumping Duty Order

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce

SUMMARY: On July 12, 2017, the United States Court of International Trade (CIT) entered its final judgment sustaining the final results of remand redetermination pursuant to court order by the Department of Commerce (Department) pertaining to the less-than-fair-value (LTFV) investigation of certain oil country tubular goods (OCTG) from Taiwan. The Department is notifying the public that the final judgment in this case is not in harmony with the Department's final determination in the LTFV investigation of OCTG from Taiwan. Pursuant to the CIT's final judgment, both mandatory respondents in the LTFV investigation of OCTG from Taiwan have received weighted-average dumping margins of zero and, therefore, the Department is hereby revoking this order.

DATES: Applicable July 22, 2017.

FOR FURTHER INFORMATION CONTACT: Hermes Pinilla, AD/CVD Operations, Office I, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-3477.

## SUPPLEMENTARY INFORMATION:

### Background

On August 8, 2014, the Department published the *LTFV Final* in this proceeding.<sup>1</sup> The Department reached an affirmative determination that certain OCTG was being, or likely to be, sold at less than fair value, for mandatory respondent, Tension Steel Industries Co., Ltd. (Tension Steel). Tension Steel appealed the *LTFV Final* to the CIT, and on May 16, 2016, the CIT remanded the final determination.<sup>2</sup> Specifically, the CIT remanded the *LTFV Final* directing the Department to grant all of Tension Steel's claimed rebate adjustments, including where the conditions of the rebate were unknown to the customer at the time of sale.<sup>3</sup>

On July 15, 2016, the Department issued its final results of redetermination pursuant to remand in accordance with the CIT's order.<sup>4</sup> On remand, the Department, under respectful protest,<sup>5</sup> granted all of Tension Steel's reported rebates and recalculated the margin for Tension Steel accordingly. On July 12, 2017, the CIT sustained the Department's *Remand Order*.<sup>6</sup> Thus, the effective date of this notice is July 22, 2017.

### Timken Notice

In its decision in *Timken*,<sup>7</sup> as clarified by *Diamond Sawblades*,<sup>8</sup> the Court of Appeals for the Federal Circuit (Federal Circuit) held that, pursuant to section 516A of the Tariff Act of

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<sup>1</sup> See *Certain Oil Country Tubular Goods from Taiwan: Final Determination of Sales at Less Than Fair Value*, 79 FR 41979 (July 18, 2014); amended in *Certain Oil Country Tubular Goods from Taiwan: Amended Final Determination of Sales at Less Than Fair Value*, 79 FR 46403 (August 8, 2014) (*LTFV Final*).

<sup>2</sup> See *Tension Steel Industries Co., Ltd., v. United States*, 179 F. Supp. 3d 1185 (CIT 2016) (*Remand Order*).

<sup>3</sup> See *Remand Order*, 179 F. Supp. 3d at 1190-91.

<sup>4</sup> See Final Results of Redetermination Pursuant to Remand, *Tension Steel Industries Co., Ltd., v. United States*, Consol. Court No. 14-00218, Slip Op. 16-51, dated July 15, 2016 (*Final Redetermination*). See also, <http://enforcement.trade.gov/remands/16-51.pdf>.

<sup>5</sup> See *Viraj Group, Ltd. v. United States*, 343 F.3d 1371 (Fed. Cir. 2003).

<sup>6</sup> See *Tension Steel Industries Co., Ltd., v. United States*, Slip Op. 17-84, Consol. Court No. 14-00218 (CIT July 12, 2017) (*Final Remand Order*).

<sup>7</sup> See *Timken Co. v. United States*, 893 F.2d. 337 (Fed. Cir. 1990) (*Timken*).

1930, as amended (the Act), the Department must publish a notice of court decision that is not “in harmony” with a Department determination and must suspend liquidation of entries pending a “conclusive” court decision.<sup>9</sup> The CIT’s July 12, 2017, judgment constitutes a final decision of that court that is not in harmony with the Department’s original affirmative determination in the *LTFV Final*. Thus, this notice is published in fulfillment of the publication requirements of *Timken* and section 516A of the Act.

Accordingly, the Department intends to issue instructions to U.S. Customs and Border Protection to suspend liquidation of all unliquidated entries of subject merchandise from Taiwan which are entered, or withdrawn from warehouse, for consumption on or after July 22, 2017, which is ten days after the court’s decision in accordance with section 516A of the Act. The company-specific cash deposit rate will be zero percent. Pursuant to *Timken, Diamond Sawblades*, and *Hosiden Corporation v. United States*, 861 F. Supp. 115 (Fed. Cir. 1994), the suspension of liquidation on all entries of OCTG from Taiwan entered, or withdrawn from warehouse, for consumption on or after July 22, 2017, that remain unliquidated, will be suspended during the pendency of the appeals process so that they may be liquidated in accordance with a “final and conclusive” court decision.

#### Amended Final Determination

Because there is now a final court decision, the Department is amending the *LTFV Final* with respect to Tension Steel. The revised weighted-average dumping margin for Tension Steel for the period July 1, 2012, through June 30, 2013, is as follows:

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<sup>8</sup> See *Diamond Sawblades Mfrs. Coalition v. United States*, 626 F.3d. 1374 (Fed. Cir. 2010) (*Diamond Sawblades*).

<sup>9</sup> See Sections 516A(c) and (e) of the Act.

Exporter or Producer	Weighted-Average Dumping Margin (Percent)
Tension Steel Industries Co., Ltd.	0.00

### Revocation of the Order

Pursuant to section 735(c)(2) of the Act, “the investigation shall be terminated upon publication of that negative determination” and the Department shall “terminate the suspension of liquidation” and “release any bond or other security and refund any cash deposit.”<sup>10</sup> As a result of this amended final determination, the Department is hereby revoking the antidumping duty order and releasing any bonds or other security and refunding cash deposits with respect to Tension Steel.

Pursuant to the Federal Circuit’s decision in *Diamond Sawblades*<sup>11</sup> and the CIT’s decision affirming the Department’s remand redetermination, the Department is revoking the antidumping duty order on OCTG from Taiwan because the revised weighted-average dumping margin for Tension Steel is now zero, and because the Department also calculated a zero margin for the only other mandatory respondent in the underlying investigation. As a result of this revocation, the Department will not initiate any new administrative reviews of this antidumping duty *Order*.<sup>12</sup>

Although section 735(c)(2)(A) of the Act instructs the Department to terminate suspension of liquidation, here, because suspension of liquidation must continue during the pendency of the appeals process (in accordance with *Timken* and as discussed above), we will

<sup>10</sup> See sections 735(c)(2)(A) and (B) of the Act.

<sup>11</sup> See *Diamond Sawblades Mfrs. Coalition v. United States*, 626 F.3d 1374 (Fed. Cir. 2010) (*Diamond Sawblades*).

<sup>12</sup> Currently there are no unfinished or ongoing administrative reviews of this order. Further, we rescinded the 2015/2016 administrative review on March 1, 2017, and this was the last administrative review completed in this proceeding. See *Certain Oil Country Tubular Goods from Taiwan: Rescission of Antidumping Duty Administrative Review; 2015-2016*, 82 FR 12197 (March 1, 2017).

continue to instruct CBP at this time to (A) continue suspension at a cash deposit rate of zero percent until instructed otherwise; and (B) release any bond or other security, and refund any cash deposit made pursuant to *OCTG From Taiwan: Antidumping Duty Order*.<sup>13</sup> In the event that the court's ruling in the *Final Remand Order* is not appealed, or appealed and upheld by the CAFC, the Department will instruct CBP to terminate the suspension of liquidation and to liquidate those entries of subject merchandise without regard to antidumping duties. Notwithstanding the continued suspension described above, the antidumping duty order on OCTG from Taiwan is hereby revoked, also described above.

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<sup>13</sup> See *Certain Oil Country Tubular Goods from India, the Republic of Korea, Taiwan, the Republic of Turkey, and the Socialist Republic of Vietnam: Antidumping Duty Orders; and Certain Oil Country Tubular Goods from the Socialist Republic of Vietnam: Amended Final Determination of Sales at Less Than Fair Value*, 79 FR 53691 (September 10, 2014) (*OCTG From Taiwan: Antidumping Duty Order*).

### Notification to Interested Parties

This notice serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of the destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of the APO is a violation subject to sanction.

This notice is issued and published in accordance with sections 516A(e)(1), 751(a)(1) and 777(i)(1) of the Act.

Gary Taverman,  
Deputy Assistant Secretary  
for Antidumping and Countervailing Duty Operations,  
performing the non-exclusive functions and duties of the  
Assistant Secretary for Enforcement and Compliance

Dated: July 24, 2017

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